

Atty Dkt. No.:STAN-334
USSN: 10/714,488

REMARKS

In view of the following remarks, the Examiner is requested to withdraw the rejections and allow Claims 1-27, 29-33, 35 and 37-44, as well as 46-48, the only claims pending and currently under examination in this application.

Claims 1, 18, and 37 have been amended. The subject matter of Claim 28 has been added to Claims 1 and 37. Claim 28 has therefore been canceled. Claim 18 has been amended so as to be in independent format. Accordingly, these amendments are fully supported by the specification and claims as originally filed and add no new matter.

Claim 43 has been amended to correct a minor spelling error.

Claims 46-48 have been added. Claims 46-48 are fully supported by the specification and claims as originally filed. Specifically, support for new Claim 46 may be found at page 2, paragraph 7, and support for Claims 47 and 48 may be found in the Claims as originally filed. Accordingly, no new matter has been added.

As the above amendments introduce no new matter to the application, their entry by the Examiner is respectfully requested.

As an initial matter, the Applicants would like to thank the Examiner for allowing Claims 29-33, 43, and 44 and indicating that Claims 18, 22-24, 28, and 38-42 are allowable but for their dependence on rejected base claims.

Claim 43 was objected to because of a spelling error. This defect has been corrected therefore obviating this objection.

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Claims 1-5, 8-14, 18-21, 26, 27, 35 and 37 have been rejected under 35 U.S.C. § 102(e) as being anticipated by Kushnir et al.

According to the MPEP, a claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference. Additionally, the identical invention must be shown in as complete detail as is contained in the claim. See MPEP § 2131.

Claims 1-5, 10-13, and 27 are directed to methods of transferring heat from a body portion of a mammal. The subject matter of Claim 28, deemed to be allowable by the Examiner, has been added to the claims. Accordingly, as Claim 28 was not included in the rejection, the rejection of Claims 1-5, 10-13, and 27 may be withdrawn.

Claims 18-21 and 26 are directed to methods of transferring heat from a body portion of a mammal. It is noted that on page 5 of the June 23, 2005 Office Action, the Examiner indicated that Claim 18 is allowable. Claim 18 has therefore been amended to be in independent format. Therefore, Claim 18 and the claims dependent therefrom should be allowable. The Applicants, therefore, respectfully request reconsideration and withdrawal of the §102 (e) rejection as to Claims 18-21 and 26.

With respect to Claim 35, it is noted that the Examiner has offered no reasoning as to why or how Claim 35 is anticipated by Kushnir. The Applicants contend that Claim 35 is allowable. A feature of Claim 35 is the determination and maintenance of the optimal thermoregulatory status of the mammal. Nowhere does Kushnir teach determining and maintaining an "optimal thermoregulatory status," and the Examiner has not asserted that Kushnir discloses such an element. Accordingly, because Kushnir does not teach all of the elements of rejected Claim 35, it can not

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be used to anticipate the present invention. Applicants, therefore, respectfully request reconsideration and withdrawal of the § 102 (e) rejection as to Claim 35.

With respect to Claim 37, it is noted that the Examiner has offered no reasoning as to why or how Claim 37 is anticipated by Kushnir. The Applicants contend that Claim 37 is allowable. A feature of Claim 37 is removing or supplying heat from a portion of the body while applying negative pressure to the portion of the body. Nowhere does Kushnir teach applying negative pressure to a portion of the body, as required by the rejected claims. Accordingly, because Kushnir does not teach all of the elements of rejected Claim 37 it can not be used to anticipate the present invention. The Applicants, therefore, respectfully request reconsideration and withdrawal of the §102 (e) rejection as to Claim 37.

Claims 6 and 7 have been rejected under 35 U.S.C. §103(a) as being obvious over Kushnir et al. in view of Kimball et al. Claims 6 and 7 ultimately depend from Claim 1. Claim 1 has been amended to include Claim 28 which was not included in this rejection. Accordingly, this rejection may be withdrawn.

Claims 15-17 have been rejected under 35 U.S.C. §103(a) as being obvious over Kushnir et al. Claims 15-17 ultimately depend from Claim 1. Claim 1 has been amended to include Claim 28 which was not included in this rejection. Accordingly, this rejection may be withdrawn.

Claim 25 has been rejected under 35 U.S.C. §103(a) as being obvious over Kushnir et al. in view of Dae et al. A feature of Claim 25 is the requirement that heat transfer occur at a portion of the body at the same time vasoconstriction or vasodilation is controlled by a method that includes drug delivery. Kushnir does not teach transferring heat from a portion of the body in conjunction with controlling vasoconstriction or vasodilation. Kushnir does not fairly suggest controlling vasoconstriction or vasodilation in conjunction with heat transfer because Kushnir is

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directed to applying heat in accordance with predetermined cardiovascular parameters to control overall core body temperature and therefore does not teach controlling vasoconstriction or vasodilation. As Dae was cited solely for drug delivery, Dae fails to cure the defects of Kushnir. Accordingly, neither Kushnir nor Dae, either or alone or in combination, can be used to render obvious the presently claimed invention. The Applicants therefore respectfully request withdrawal of this rejection

New Claims 46-48 are directed to a method of transferring heat from a body portion of a mammal, which includes the element of determining a state of vasoconstriction or vasodilation in a specific portion of the body. As none of the art of record include this element, Claims 46-48 are allowable.

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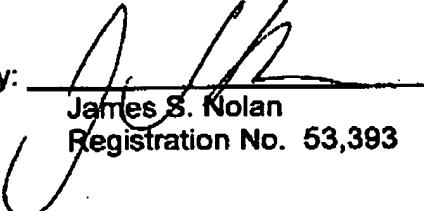
CONCLUSION

In view of the above amendments and remarks, this application is considered to be in good and proper form for allowance and the Examiner is respectfully requested to pass this application to issuance.

The Commissioner is hereby authorized to charge any underpayment of fees associated with this communication, including any necessary fees for extensions of time, or credit any overpayment to Deposit Account No. 50-0815.

Respectfully submitted,
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